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Today, I want to comment especially on a number of the proposals President Bush made at the National Defense University on February 11 on proliferation.

But before I do that, I should say that the present state of the nuclear non-proliferation regime, the complex of treaties, implementation rules and inspections centered on the Non-Proliferation Treaty is extremely bad. As I see it, the complete collapse of the non-proliferation regime could happen in the next several years.

The regime has received a series of body blows over the past 15 years, beginning with the covert development of nuclear, biological and chemical weapons by Iraq prior to the Gulf War. There followed the discovery in late 1993 that North Korea was engaged in recovering plutonium from spent fuel rods, the Indian and Pakistani nuclear tests in 1998, the emergence of information about the secret Iranian nuclear energy program in August, 2002 continued to the present time; North Korea's revelation, later revoked, of its secret program for uranium enrichment in October 2002, followed by its withdrawal from the NPT and resumption of production at the Yongbyon plutonium producing reactor in early 2003 and emptying of the cooling pond where used reactor rods were stored. Israel has quietly moved ahead with its weapons program. Pakistan and India have continued active testing of nuclear delivery missiles. Pakistan is reported to have moved into production of plutonium during 2003, as well as enriched uranium. In late 2003, the shift of Libyan policy brought to light Libyan activities on weapons of mass destruction and evidence of the nuclear contraband ring of Dr. A.Q. Khan. Revelations on this ring also came from Iran in documents reviewed by the IAEA, the International Atomic Energy Agency. An important aspect of these developments, as Dr. ElBaradei has admitted, is that the IAEA failed to detect these developments in pre-Gulf War Iraq, North Korea, Iran, Libya and Pakistan.

These are cases of what is called horizontal proliferation, the spread of weapons capacity to new states. In the area characterized as vertical proliferation, actions by the weapon states, the United States has introduced a new weapons doctrine calling for preemptive use of nuclear weapons in the event of suspected development or preparation of use of WMD by rogue states. The U.S. has refused to resubmit the Comprehensive Test Ban Treaty for Senate ratification, has begun the development of robust earth

penetrating nuclear weapons, the laboratory study of mini-nukes, and has cut the preparation time for resumption of nuclear testing. These actions, together with several statements by senior administration officials that they believe testing should resume because valuable weapon designer crews were drifting away, have caused some people to predict that the administration will announce the resumption of nuclear weapons testing within the next two-three years if reelected. Beyond this, the main institutions of the non-proliferation regime, the Security Council and the inspection process, were heavily battered by U.S. criticism up to and beyond the beginning of the present U.S.-UK military action against Iraq.

If the nonproliferation regime does collapse, the result will be a proliferated world with up to 40 weapon states, a global cold war atmosphere, of incessant concern and alarms about weapons activity, and active trade in weapons to terrorists and criminals. The danger of actual use of nuclear weapons will increase. The influence of the U.S. and its military power to act against nuclear-armed adversaries will decline drastically and the UN's capacity to make peace and carry out peacekeeping operations against nuclear-armed participants in conflicts will melt away. The world will become a violent jungle, much more dangerous than it is today.

The Bush Reaction

In the face of this direct threat to U.S. power and influence, President Bush's administration has reacted very strongly with the first preemptive armed attack against proliferation in Iraq, with an accelerated but I believe ineffective missile defense program, and with a series of measures summarized in the President's speech at the National Defense University on February 11. For reasons of time, I am not going to try to cover all of these February 11 suggestions, but will focus on a few of them.

A central item of the President's February 11 talk is the draft Security Council resolution submitted to the permanent five on December 16 and passed on to the full Council on March 24 after approval by the permanent five members. The measure would outlaw transfer of nuclear, chemical and biological weapons or weapons components to terrorists or non-state groups. The draft resolution cites Chapter VII authority, authorizing use of force to implement its prohibition against any non-state actor from manufacturing, acquiring, possessing, developing or using nuclear, chemical or biological weapons and their means of delivery.

The fact that the new text has been agreed by the U.S. and the other permanent members of the Security Council represents considerable progress for the administration in gaining the agreement of these governments, especially the Chinese government.

Some non-permanent members of the Security Council have indicated that they object to the long-standing and frequently used method of first reaching agreement

among the Permanent Five of the Security Council and then raising the issue for discussion with other Council members. Some said they wanted a treaty instead of a Chapter VII resolution and that the Security Council should not legislate for the world. I believe that is what the Council should be doing in this proliferation area. Pakistan in particular argued that the resolution in its present form would permit “a powerful state” to attack another country. The German permanent representative said the present draft lacked a necessary reference to the existing obligations of the nuclear weapon states under the Non-Proliferation Treaty to move toward elimination of their own nuclear weapons. This criticism seems justified.

It looks as though this draft will pass this week, perhaps with modifications, and that it will bring useful tightening of the non-proliferation regime, locking the A.Q. Khan door after the stable has been emptied out, but nonetheless useful.

The President’s second measure was to expand the Proliferation Security Initiative, the loose working arrangement among now 16 governments to block the sea and air transport of illicit WMD materials. This program blocked a shipment of centrifuges bound for Libya in 2003. The President wants this program expanded to act against proliferators, to shut down their labs and seize their assets. This suggests sudden vigilante action, like some operations of the Drug Enforcement Agency.

However, neither vessels nor aircraft in international waters or airspace, owned or registered by countries not participating in the Initiative or their territories, would be covered by the program, unless these countries gave their explicit agreement to the operation. The logical thing is to universalize and legalize this program through a Security Council resolution so that it would be authorized and controlled by the Council and not an individual government.

In his speech, President Bush suggested (measure #4) that no countries should be permitted to buy enrichment or reprocessing equipment beyond those who already possess it. Presumably, the Nuclear Suppliers Group would have to agree that its members would not transfer this equipment to states of this kind. Obtaining such agreement may not be easy. The President said arrangements would be made to provide assured delivery of nuclear fuel to such countries and to remove their nuclear waste but did not give details.

This measure would only fit countries that have nuclear reactors, but no enrichment or reprocessing plants, or countries that have no nuclear energy reactors as yet – many developing countries are interested in going into nuclear energy. The measure would not apply to countries that already have enrichment or reprocessing capacity, 12 or 14 countries, some of them already weapon states. It is the other states in this group that could withdraw from the NPT and rapidly begin to produce nuclear weapons, or covertly produce fissionable material.

For this reason, IAEA Director-General ElBaradei has repeatedly suggested that all enrichment and reprocessing plants be placed under some form of international control.

For this to happen, some new international entity would have to be established or the competence of the IAEA greatly expanded. It would in any event probably take many years to carry out this project. It is unlikely that states with existing enrichment or reprocessing plants would agree to close and dismantle them in order to receive fuel supplies from a few large producers like the U.S., France and Russia, supplies which could be cut off for political reasons. This concern is why Japan has insisted on having breeder reactors for its nuclear plants. Moreover, Article IV of the NPT gives states party to the Treaty an inalienable right to develop, research, produce and use nuclear energy.

The Additional Safeguards Protocol enables the IAEA to broaden its inspection rights. To gain broader acceptance of the Protocol, the President suggests (measure #5) that only those states that have ratified the 1997 Additional Safeguards Protocol expanding IAEA inspection rights should be allowed to import equipment for civilian nuclear programs. Implementing this suggestion would require the cooperation of the members of the Nuclear Suppliers Group, which may not be automatic, and also the willingness of the 150 NPT signatory states which have not yet ratified the Additional Protocol to have their rights to free access to peaceful nuclear technology under Article IV of the Non-Proliferation Treaty nullified.

I suggest that a more effective action here would be a Security Council Chapter VII resolution based on the 1992 statement of heads of state and government declaring proliferation a threat to international security. The new resolution would make it mandatory for all states parties to the NPT to accept the 1997 Additional Protocol.

As a deterrent to proliferation, the Security Council should also be asked to agree in advance on a standard set of penalties for acts of proliferation by governments. This could include, as recently decided by the European Union -- on a step-by-step basis -- economic sanctions, suspension of trade, suspension of air and sea travel, and coercive military action as a last step. This Council decision would be a preparatory and deterrent move. Specific action would require subsequent Council decision in the individual case.

To explain this situation, agreed action by the Security Council against proliferants is far preferable to preemptive action by a few governments. From the viewpoint of the coalition states now in Iraq, given the high costs of the Iraqi operation, preemptive action involving ground force invasion and dissolving existing governments is unlikely to recur, leaving a serious gap in potential action against proven proliferators which can be filled only by Security Council action.

The Security Council should establish a permanent inspection corps to supplement the work of existing international agencies on detection of illicit WMD, and to publicize attempts and methods of would-be proliferators. These inspectors could be used in Libya and ultimately in North Korea, and also to implement the Secretary General's existing authority to investigate possible use of biological or chemical weapons.

The ease and speed of withdrawal from the Non-Proliferation Treaty in ninety days has created the possibility that a state party to the treaty could amass all the installations and skills necessary for nuclear weapons, then withdraw from the treaty and proceed to produce nuclear weapons.

One possible measure to forestall this outcome is an amendment to the Non-Proliferation Treaty that would increase the withdrawal period to three years, a period during which the international community can enter into dialogue with the withdrawing state and seek to dissuade it, applying all possible pressures. However, because the process of NPT amendment could take several years and risks undesirable amendments, to make this provision effective immediately, the Security Council should pass a stopgap resolution to the same effect, based on Chapter VII dangers to international security from abrupt withdrawal from the NPT.

Finally, I suggest that the U.S. and the other four nuclear weapon states recognized in the Non-Proliferation Treaty (UK, France, China, and Russia), should invite the three other governments known to possess nuclear arsenals, but that do not participate in the NPT – Israel, India and Pakistan – to join them in negotiations to reduce the nuclear forces of all weapon states. Possible first steps should be the exchange of information on the nuclear arsenals of each participant and a freeze on the level of deployed weapons.

An alternative approach would be to convene the less structured conference to eliminate nuclear dangers which was proposed by Secretary General Annan a few years ago, to include in this conference all states known to have nuclear weapons, and to devise at least a few obligations that could be undertaken by all of these states, bringing all known weapon states under some form of international control. Some action of this kind is a necessity to gain cooperation of the 182 NPT member states without nuclear weapons in shoring up the non-proliferation regime.

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